

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHANIE WEDRA, on behalf of herself and all others
similarly situated,

Plaintiff,

v.

CREE, INC.,

Defendant.

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| DOCUMENT |
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X : Case No.: 7:19-cv-03162-VB

: FOURTH REVISED CIVIL
: CASE DISCOVERY
: PLAN AND SCHEDULING
: ORDER

X

Wedra v. Cree Proposed Revised Discovery Plan

This Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel and any unrepresented parties, pursuant to Fed. R. Civ. P. 16 and 26(f):

1. All parties **do not consent** to conducting all further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. (If all parties consent, the remaining paragraphs of this form need not be completed.)
2. This case **is** to be tried to a jury.
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed by **January 15, 2021**. (Absent exceptional circumstances, 30 days from date of this Order.)
4. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) shall be completed by **May 18, 2020**. (Absent exceptional circumstances, 14 days from date of this Order.)
5. Fact Discovery
 - a. The parties agree that discovery deadlines may need to be reconsidered and adjusted following the Court's ruling on the Plaintiff's motion for class certification, and agree to meet and confer with respect to discovery deadlines within 14 days of the Court's ruling on the Plaintiff's motion for class

certification. In the absence of the parties' agreement on adjusted deadlines or a Court order, the parties agree to the deadlines below.

- b. All fact discovery shall be completed by **105 days after ruling on class certification, with deadline for Plaintiff to file motion for class certification on February 26, 2021.**
- c. Initial requests for production of documents shall be served by **June 3, 2020.**
- d. Interrogatories shall be served by **63 days after ruling on class certification, with deadline for Plaintiff to file motion for class certification February 26, 2021.**
- e. Non-expert depositions shall be completed by **105 days after ruling on class certification.**
- f. Requests to admit shall be served by **63 days after ruling on class certification, with deadline for Plaintiff to file motion for class certification February 26, 2021.**
- g. Any of the interim deadlines in paragraphs 5(b) through 5(f) may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5(b) or the date as modified by agreement or Order as set forth in paragraph 5(a).

6. Class Certification

- a. **Deadline to file class certification motion and Plaintiff's Expert Disclosures Related to Class Certification: February 26, 2021.**
- b. **Deadline to file opposition to class certification, including *Daubert* challenges relevant to class certification and Defendant's disclosures related to class certification: April 30, 2021.**
- c. **Deadline to file reply in support of class certification and response to *Daubert* challenges relevant to class certification and Plaintiff's rebuttal expert disclosures related to class certification: July 8, 2021.**
- d. **Deadline to file replies in support of Defendant's motions to strike Plaintiff's experts and responses to Plaintiff's motions to strike Defendant's experts related to class certification: September 8, 2021.**
- e. **Deadline to file replies in support of Plaintiff's motions to strike Defendant's experts related to class certification: October 8, 2021.**

7. Expert Discovery

- a. The parties agree that discovery deadlines may need to be reconsidered and adjusted following the Court's ruling on the Plaintiff's motion for class certification, and agree to meet and confer with respect to discovery deadlines and additional expert disclosures within 14 days of the Court's ruling on the Plaintiff's motion for class certification. In the absence of the parties' agreement on adjusted deadlines or a Court order, the parties agree to the deadlines below.
- b. All expert discovery, including expert depositions, shall be completed by **105 days after the Court's ruling on class certification**. (Absent exceptional circumstances, 45 days from date in paragraph 5(a); the completion of all fact discovery.) Plaintiff's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by **42 days after the Court's ruling on class certification**.
- c. Defendant's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by **84 days after the Court's ruling on class certification**.
- d. Plaintiff's rebuttal expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by **98 days after the Court's ruling on class certification**.
- e. The interim deadlines in paragraphs 6(b) – 6(d) may be extended by the written consent of all parties without application to the Court, provided that all expert discovery is completed by the date set forth in paragraph 6(a).

8. Additional provisions agreed upon by the parties are set forth in bold print and made a part hereof.

The chart below summarizes the dates set forth in Paragraphs 5-7 above:

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|--|-------------------|
| Plaintiff's deadline to file motion for class certification and serve related expert disclosures | February 26, 2021 |
| Defendant's deadline to oppose class certification motion and serve related expert disclosures and <i>Daubert</i> motions | April 30, 2021 |
| Plaintiff's deadline to file reply to Defendant's opposition to class certification motion and related expert rebuttal reports | July 8, 2021 |
| Defendant's deadline to file replies in support of its <i>Daubert</i> motions and | September 8, 2021 |

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| responses to Plaintiff's <i>Daubert</i> motions | |
| Plaintiff's deadline to file replies in support of its <i>Daubert</i> motions | October 8, 2021 |
| Deadline to complete fact and expert discovery | 105 days after class cert order |
| Deadline for plaintiff to serve merits expert reports | 42 days after class cert order |
| Deadline for defendant to serve merits expert reports | 84 days after class cert order |
| Deadline for plaintiff to serve rebuttal merits expert reports | 98 days after class cert order |

[Additional Provision] The parties agree that discovery deadlines may need to be reconsidered and adjusted following the Court's ruling on the Plaintiff's motion for class certification, and agree to meet and confer with respect to discovery deadlines and additional expert disclosures within 14 days of the Court's ruling on the Plaintiff's motion for class certification.

ALL DISCOVERY SHALL BE COMPLETED BY 105 days after the Court's ruling on class certification (Absent exceptional circumstances, a period not to exceed 6 months from date of this Order.)

10. All motions and applications shall be governed by the Court's Individual Practices, including the requirement of a pre-motion conference before a motion for summary judgment is filed.
11. Unless otherwise ordered by the Court, within 30 days after the date for the completion of discovery, or, if a dispositive motion has been filed, within 30 days after a decision on the motion, the parties shall submit to the Court for its approval a Joint Pretrial Order prepared in accordance with the Court's Individual Practices. The parties shall also comply with the Court's Individual Practices with respect to the filing of other required pretrial documents.
12. The parties have conferred and their present best estimate of the length of the trial is **7-10 days**.
13. This Civil Case Discovery Plan and Scheduling Order may not be modified or the dates herein extended without leave of the Court or the assigned Magistrate Judge acting under a specific order of reference (except as provided in paragraphs 5(f) and 6(d) above).
14. The Magistrate Judge assigned to this case is the Honorable Judith C. McCarthy.

15. If, after the entry of this Order, the parties consent to trial before a Magistrate Judge, the Magistrate Judge will schedule a date certain for trial and will, if necessary, amend this Order consistent therewith.
16. The next case management conference is scheduled for TBD at . (The Court will set this date at the initial conference.)

Dated: June 30, 2021
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge